



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA

CITY-COUNTY PLANNING COMMISSION
PLAN AMENDMENT REPORT



Meeting Date: November 3, 2014

Reference Name	The Corners at Brier Creek (A1200008)		Jurisdiction	City
Applicant	Morningstar Law Group Patrick Byker			
Request Change in Comprehensive Plan Designation	From:	Commercial and Low-Medium Density Residential (4–8 DU/Ac.)		
	To:	Commercial and Medium Density Residential (6–12 DU/Ac.)		
Site Characteristics	Tier:	Suburban		
	Present Use:	Vacant, single-family residential		
	Present Zoning:	Rural Residential (RR)		
	Overlays:	N/A		
	Size:	1. 21.56 acres (Commercial to Medium Density Residential) 2. 32.40 acres (Low-Medium Density Residential to Medium Density Residential) 3. 7.47 acres (Low-Medium Density Residential to Commercial) 4. 1.07 acres (Jurisdiction Transfer: City of Raleigh to City of Durham, Commercial) 62.50 acres (total)		
Location	The north side of US Highway 70, near the intersection of TW Alexander Drive			
PINs	Wake County PINs 0768-29-0724, -2671, -8421, -38-0173, 39-2255, -4288, -6587; 0769-00-6806, -11-1061, -20-7128, -21-3367, -30-4043; Durham County PIN 0769-03-21-3190.DW			
Recommendations	Staff	Approval, based on the proposal being justified and meeting the four criteria for plan amendments.		
	Planning Commission	Approval, September 9, 2014, 11-2, based on the justification, the request meeting the four criteria for plan amendments, and information heard at the public hearing.		

A. Summary

The applicant, Morningstar Law Group, proposes to amend the Future Land Use Map on the north side of US Highway 70 near the intersection of TW Alexander Drive in four ways:

- 1) Change approximately 21.56 acres along the north side of US Highway 70 from Commercial to Medium Density Residential (6-12 DU/Ac.);
- 2) Change approximately 32.40 acres along the Durham and Wake County line from Low-Medium Density Residential (4-8 DU/Ac.) to Medium Density Residential (6-12 DU/Ac.);
- 3) Change approximately 7.47 acres along the proposed alignment of ACC Boulevard Extension from Low-Medium Density Residential (4-8 DU/Ac.) to Commercial; and
- 4) Change approximately 1.07 acres of annexed property north of TW Alexander Drive.

In addition, the applicant has proposed to change the zoning of 116.8 acres in this vicinity from Rural Residential (RR) in Durham County, and Residential-4 (R-4), Thoroughfare District (TD), and Thoroughfare Conditional Use (CUD TD) in Wake County (within the City of Raleigh Extraterritorial Jurisdiction) to Commercial General with a development plan (CG(D)) and Planned Development Residential (PDR) 10.600 (zoning case Z1200019). The proposed project comprises 425,000 square feet of commercial uses, 450 apartment units, and 150 townhouse units. These zoning changes would be consistent with the Future Land Use Map should the proposed amendment be approved.

The majority of the proposed plan amendment and zoning change is located within Wake County. However, the entirety of the project is located within the Durham portion of the 1999 Durham–Raleigh Annexation Agreement Area, and therefore Future Land Use Map amendment and zoning map change requests, as well as an annexation request, are being made to the City of Durham. The entirety of the project is located in the Suburban Tier and outside of a protected watershed overlay district.

B. Site History

The site falls along the border of Durham and Wake Counties. Portions of this site are located in both Durham and Wake Counties; however, the Wake County portion is located within areas designated for future annexation into the City of Durham per the 1999 Durham–Raleigh Annexation Agreement. Furthermore, the 2014 Senate Bill 871 transferred approximately 1.07 acres from the City of Raleigh to the City of Durham. Site conditions in this area have changed since the creation of the *Durham Comprehensive Plan* in 2005, with increasing density in construction and traffic following the development of Brier Creek in the last decade, just over the Wake County border.

C. Existing Site Characteristics

The site of the proposed plan amendment consists of portions of six parcels totaling 62.5 acres and situated close to the intersection of US 70 and TW Alexander Drive. The majority of these parcels are forested and vacant. One parcel has frontage along US 70. A utilities corridor has been cleared through the western portion of the site, traversing three parcels. A tributary to the Little Brier Creek flows south through the site, bisecting one of

the parcels; the corresponding portion designated as Recreation/Open Space will remain under this designation.

D. Applicant's Plan Amendment Justification

Given the broader context of recent development and planning initiatives in far eastern Durham County and in the area of Raleigh known as Brier Creek, the applicant contends that the parcels under consideration ought to be amended from their current future land use designation for a number of reasons:

1. *Commercial to Medium Density Residential.* The applicant notes that environmental conditions, including "perennial streams and steep grades would force any commercial development on these parcels to be 'strip' development, fronting US Highway 70 and therefore conflicting with Policy 2.2.2e, Suburban Tier Commercial Development." The applicant argues that a unified residential development pattern would be more compatible with the site.
2. *Low-Medium Density Residential to Medium Density Residential.* The applicant contends that increasing residential density along US Highway 70 is consistent and compatible with a range of multifamily developments either built or approved within a one-mile radius of the subject site.
3. *Low-Medium Density Residential to Commercial.* According to the applicant, amending this parcel to Commercial would "expand and enhance the commercial node" at the intersection of TW Alexander and ACC Boulevard, thus "eliminating numerous driveways" from US Highway 70.

Staff Response: Staff agrees with the applicant that the proposed conversion of land along US Highway 70 from Commercial to Medium Density Residential makes better use of the parcel because development is otherwise impeded by topography. A stream traversing the eastern half of the parcel and a major utilities corridor traversing the entire parcel could be more easily incorporated into residential development than commercial. If the present parcel were to be developed as commercial, it would be limited to the portion closest to the highway, and necessitate a strip development pattern far from an intersection, contrary to Durham's policies.

Staff further agrees that recent development patterns in the area point to higher density at this site, which is situated less than one mile from the Brier Creek Shopping Center. The increased density of the residential parcels to Medium Density Residential creates a more gradual transition of uses, from Commercial use south of the site to Low Density Residential use to the north. Finally, the conversion of Low-Medium Density Residential land to Commercial and the incorporation of newly annexed land as Commercial serves to expand an existing commercial node.

E. Criteria for Plan Amendments

The Unified Development Ordinance (UDO) contains criteria for the Planning Commission to use in considering proposals to amend the *Durham Comprehensive Plan* (see Section 3.4.7, Criteria for Planning Commission Recommendations). The proposed plan amendment has been evaluated against these criteria.

- A. Whether the proposed change would be consistent with the intent, goals, objectives, policies, guiding principles and program of any adopted plans;
- B. Whether the proposed change would be compatible with the existing land use pattern and designated future land uses;
- C. Whether the proposed change would create substantial adverse impact in the adjacent area or in the City or County in general; and
- D. Whether the subject parcel is of adequate shape and size to accommodate the proposed change.

1. Consistency with Adopted Plans and Policies

The *Durham Comprehensive Plan* is a policy document intended to guide growth and development in an organized and efficient manner. Evaluating the proposed plan amendment for consistency with relevant policies is crucial in determining if changing the Future Land Use Map is appropriate. The following policies were deemed relevant to the current plan amendment request.

Table 1: Relevant Durham Comprehensive Plan Policies
<p>Policy 2.2.2f. Suburban Tier Spacing of Commercial Nodes. The City-County Planning Department shall use the following standards when evaluating requests for new commercial development in the Suburban Tier:</p> <ul style="list-style-type: none"> i. Separate distinct nodes of commercial development by a distance of at least one-half mile, measured from the outermost edge of the node; ii. Cluster commercial uses at intersections of thoroughfares; and iii. Restrict new, isolated, mid-block commercial uses.
<p><i>Policy 2.3.1a. Contiguous Development.</i> Support orderly development patterns that take advantage of existing urban services, and avoid, insofar as possible, patterns of leapfrog, noncontiguous, scattered development.</p>
<p><i>Policy 4.2.3a. Commercial Development Design.</i> Through the Unified Development Ordinance, discourage auto-oriented strip commercial development and instead encourage commercial “nodes” with appropriately designed internal connections. Develop design standards to limit expansive parking lots in front of strip commercial development.</p>

Amending the Future Land Use Map to Low Density Residential is consistent with the abovementioned policy statements. The *Durham Comprehensive Plan* seeks to promote distinct nodes of commercial development at major intersections, spaced at least half a mile apart. The Plan further promotes contiguous development patterns, encourages greater density in areas where it is appropriate, and avoids leapfrog patterns of development. The proposed amendment seeks to increase the density of the subject site from its current designation because of its proximity to major commercial development in an area where City services are already provided. Finally, the Plan discourages auto-oriented strip development in favor of commercial nodes with internal connections. The proposed plan amendment meets this objective by shaping the present future land use pattern on the site from a commercial strip

development along a major highway to an enlarged commercial node surrounded by higher-density residential development.

Staff Conclusion: This proposed plan amendment is consistent with adopted plans and policies and therefore meets criterion 3.4.7A.

2. Compatibility with Existing Development and Future Land Use Patterns

This site is located along the eastern edge of Durham County, along US Highway 70, approximately eight miles southeast of the City center. Despite its suburban location at the county line, the area is developing quickly because of its proximity to an already established commercial center in Wake County. This commercial center takes advantage of the major intersection of US Highway 70 and Interstate 540. In addition, the site is equidistant to the Durham and Raleigh city centers. Much of the land around it in Durham County is designated Low Density Residential and Low-Medium Density Residential.

Table 2: Area Land Uses and Designations		
	Existing Uses	Future Land Use Designations
North	Rural Residential	Low Density Residential
East	Commercial	Office and Residential Mixed Use (City of Raleigh)
South	Single-Family Residential	Regional Mixed Use (City of Raleigh)
West	Vacant	Low-Medium Density Residential

Existing Uses: The site of the proposed plan amendment is situated just west of commercial development in Wake County, including Alexander Promenade (containing a Wal-Mart Supercenter) and Brier Creek Shopping Center. To the south, across US Highway 70, is a suburban housing development, also in Wake County. To the north lie mainly rural residential lands with single-family homes and some agricultural uses. A suburban housing development with single-family homes is currently under construction immediately to the north.

Future Land Use Designations: Land to the immediate north and west of the site is designated Low Density Residential and Low-Medium Density Residential. Land to the south and east is located in Wake County and out of City of Durham jurisdiction.

Analysis: Because of its location along US Highway 70, with proximity to Interstate 540, the area contains prime land for development. The area is heavily forested at present, and lies adjacent to lands in Durham County that have retained their rural character. However, the lands also lie adjacent to heavily trafficked suburban commercial centers in Wake County. In addition, a US Highway 70 expansion is planned that will convert the present highway into a limited access freeway. Parallel to this freeway, ACC Boulevard will extend into the site from where it currently

terminates at TW Alexander Drive. This proposal supports the City and County policy that promotes compatible land usage and future development patterns.

Staff Conclusion: The proposed plan amendment is consistent with designated future land uses in the area and therefore meets criterion 3.4.7.B.

3. Adverse Impacts

Infrastructure: A theme found throughout the *Durham Comprehensive Plan* is ensuring that the pace of urbanized growth does not exceed the ability to provide essential services (*Objective 2.3.2, Infrastructure Capacity*). Toward that end, *Policy 2.3.2a., Infrastructure Capacity*, directs the City-County Planning Department to consider impacts to the capacity of existing infrastructure when evaluating changes to the Future Land Use Map and Zoning Atlas.

Durham Comprehensive Plan Policy 8.1.2a, Traffic Level of Service (LOS) Standards, states that the LOS for roads in the Suburban Tier shall achieve a minimum of LOS D.

Analysis: A Traffic Impact Analysis (TIA) was required as part of the zoning map change process. US Highway 70 is the major road impacted by the proposed development. The US Highway 70/Brier Creek Mobility Fund Project, as called for in the State Transportation Improvements Program, would convert the Brier Creek Parkway/US 70 intersection into an interchange. According to comments made on the TIA, this project is scheduled to begin in 2016, with construction commencing in 2017. The proposed development is expected to generate 31,587 average daily trips. After construction of the US Highway 70/Brier Creek Mobility Fund Project and improvements called for in the TIA, the road infrastructure should be able to accommodate traffic from the proposed development. Transit service does not currently exist adjacent to this site. A detailed assessment of traffic impacts and commitments is included in the zoning map change staff report.

The proposed development is projected to increase the number of students in Durham County by 20 (and by 139 students in Wake County), and increase the estimated water demand by 120,360 gallons per day. The existing infrastructure has available capacity to meet these increases.

Future Demand for Land Uses: *Durham Comprehensive Plan Policy 2.5.2e., Demand for Land Uses*, states that in evaluating Plan Amendments, the Governing Boards and the City-County Planning Department shall consider the projected need for the requested land use in the future.

Analysis: The intent of this policy is to ensure that sufficient land is available to meet the future demand for housing. Projections show that the proposed plan amendment does not detract from Durham's ability to provide sufficient land to accommodate commercial and residential needs to 2035.

Environment: The site is not located in a watershed protection overlay and has no Significant Natural Heritage Area. While a stream and floodplain does exist on the site, there is no reason this parcel could not be developed consistent with UDO standards.

Staff Conclusion: The proposed plan amendment does not create any substantial adverse impact in the adjacent area or in the City or County in general and, therefore, meets criterion 3.4.7.C.

4. Adequate Shape and Size

The area requested for amendment is approximately 62.50 acres in total, and while the component parts are smaller, each is of sufficient shape and size for Low-Medium Residential and Commercial development in the Suburban Tier.

Staff Conclusion: The site is of adequate shape and size to accommodate the use pursuant to the proposed change and, therefore, meets criterion 3.4.7.D.

F. Notification

Staff certifies that notification, including newspaper advertisements and letters to property owners within 1,000 feet of the site, has been carried out in accordance with Section 3.2.5 of the UDO. The following neighborhood organizations were mailed notices:

- Inter-Neighborhood Council
- People's Alliance
- Durham Justice and Fairness Inter-Neighborhood Association
- Partners Against Crime – District 1
- Olive Branch Road Association
- Center of the Region Enterprise (C.O.R.E.)
- Town of Cary Planning
- City of Raleigh
- RDU HZO Permit Area
- Keep Durham Beautiful

G. Recommendations

Staff recommends approval, based on the proposal being justified and meeting the four criteria for plan amendments.

The Planning Commission recommended approval, 11-2, at its September 9, 2014 meeting based on the justification, the request meeting the four criteria for plan amendments, and information heard at the public hearing.

H. Staff Contact

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I. Attachments

Attachment 1, Proposed Change
Attachment 2, Area Context
Attachment 3, Aerial Image
Attachment 4, Applicant's Justification Statement
Attachment 5, Annexation Agreement
Attachment 6, Planning Commission Comments
Attachment 7, Resolution